

Post Office Box 44320
Phoenix, Arizona 85064
(602) 241-0101 Telephone
trustee@reaves-law.com

In Re:) Case No. 2:11-bk-23401-EPB
)
DAVID LESTER MITTENDORF and) Chapter 7
DONNA FRANCES MITTENDORF,)
) **TRUSTEE’S OBJECTION TO**
) **PROOF OF CLAIM NUMBER 7**
) **AND NUMBER 18 FILED BY THE**
Debtors.) **INTERNAL REVENUE SERVICE**

2. The Court set a proof of claims bar date of December 21, 2011. On August 24, 2011, the IRS filed Claim No. 7 in the amount of \$60,101.19 as a priority tax claim, and on December 8, 2011, filed an amended Claim No. 7 in the amount of \$55,345.35, again as a priority tax claim. On March 9, 2012, the IRS filed Claim No. 18, asserting a priority claim of \$55,145.35, and an unsecured claim of \$23,811.80. At about the same

1 time, on March 14, 2012, the Debtors filed an amendment to Claim No. 7, asserting on
2 behalf of the IRS a claim in the amount of \$78,957.15.

3 3. On or about September 29, 2011, this Court entered its *Order Confirming*
4 *Chapter 12 Plan and Approving Professional Fees and Costs* (the “Confirmation Order”)
5 [Dkt. No. 33]. Pursuant to the Debtors’ Chapter 12 Plan, the priority tax claims were to
6 be paid in full through the plan, with interest at the legal rate.

7 4. Trustee has paid the total sum of \$56,705.00 to the IRS in connection with
8 the priority tax claim, with interest. A balance of \$22,252.15 remains unpaid as a general
9 unsecured claim.

10 5. Trustee objects to Claims No. 7 and 18. Claim No. 7, as amended, is a
11 duplicate of Claim No. 18. Trustee is informed and believes that Amended Claim No. 7
12 was filed out of an abundance of caution by the Debtors, not knowing that the IRS had
13 filed a new Claim No. 18, rather than filing an amendment to Claim No. 7.

14 6. Trustee recommends that Claim No. 7 be disallowed as duplicative of
15 Claim No. 18. Trustee further recommends that Claim No. 18 be allowed as a general
16 unsecured claim in the amount of \$22,252.15.

17 NOTICE IS GIVEN that the above claim be allowed in the amount and with the
18 priority as recommended above by the Trustee unless on or before fourteen (14) days
19 from mailing, the Claimant either: (i) sends, with a copy of this notice, proper
20 documentation to the Trustee establishing the correct claim amount and receives from
21 the Trustee a withdrawal of objection; or (ii) files and serves a response to the objection
22 with the Clerk of the Court, 230 North First Avenue, Suite 101, Phoenix, Arizona 85003,
23 and mails a copy thereof to the Trustee at: Post Office Box 44320, Phoenix, Arizona
24 85064-4320. If the Claimant timely files and serves a response to the objection, the
25 Trustee shall request a hearing from the court, which hearing shall be held on at least 30
days notice to the Claimant.

1 A true and exact copy of this objection has been forwarded on the date as appears
2 below to the Claimant.

3 Dated this 10th day of November, 2016.

4 By: /s/ David M. Reaves
5 David M. Reaves,
6 Chapter 7 Trustee
7

8 COPY of the foregoing MAILED
9 this 10th day of November, 2016, to:

10 Internal Revenue Service
11 P.O. Box 7346
12 Philadelphia, PA 19101-7346
13 Claimant

14 Internal Revenue Service
15 4041 N. Central Avenue
16 M/S MS 5014
17 Phoenix, AZ 85012-5000
18 Claimant

19 David and Donna Mittendorf
20 813 E. Harvard Avenue
21 Gilbert, AZ 85234
22 Debtors

23 Kelly G. Black
24 Kelly G. Black, PLC
25 1152 E. Greenway St, Ste 4
Mesa, Arizona 85203
Debtors' Attorney

Office of the U.S. Trustee
230 North First Avenue, Suite 204
Phoenix, AZ 85003

/s/ Kathleen Arnold